



UNITED STATES PERMANENT MISSION TO THE
ORGANIZATION OF AMERICAN STATES

DEPARTMENT OF STATE
WASHINGTON, D.C. 20520

No. 07-B

The United States Mission to the Organization of American States (USOAS) presents its compliments to the Secretariat of the Organization of American States (OAS) and has the honor to restate policies and procedures regarding the application of the Foreign Missions Act (22 U.S.C. §§ 4301-4316) (the Act) concerning the rules and procedures associated with the acquisition, alteration, construction, renovation, use, or disposition of real property by foreign missions in the United States. This note supersedes the USOAS' circular diplomatic note No. 31-B, dated June 18, 2014.

Pursuant to Section 209(a) of the Foreign Missions Act (22 U.S.C. § 4309(a)), the U.S. Department of State has determined that the application of all provisions of the Foreign Missions Act (22 U.S.C. §§ 4301-4316) to international organizations is necessary to facilitate the secure and efficient operation of the organizations in the United States, to assist in obtaining benefits, privileges and immunities for the organizations, and to require their observance of corresponding obligations in accordance with international law.

Pursuant to Section 205 of the Act (22 U.S.C. § 4305), international organizations, including the OAS, are obligated to notify and obtain approval from the Department of State's Office of Foreign Missions (OFM) *before* finalizing a proposed lease, purchase, sale, or any other acquisition or disposition of real property in the United States, undertaken by or on behalf of a foreign mission. In accordance with Section 205, all such transactions are subject to disapproval by the Department.

signed/Bradley Freden

General Secretariat

Organization of American States,

Washington, D.C. February 8, 2021

This requirement applies to all property transactions, for office or residential use, by international organizations anywhere in the United States and its territories.

The OAS is further informed that this requirement extends to the acquisition of the residence of the Secretariat, irrespective of whether the acquisition is undertaken by the OAS or in a personal transaction by the Secretariat himself or herself.

Absent OFM's approval of a proposed acquisition, alteration, construction, renovation, use, or disposition of real property, the OAS is advised that its properties would not enjoy any otherwise applicable privileges and immunities, including inviolability and exemption from real estate taxation. Accordingly, failure to duly notify and obtain OFM's approval will have implications for the personnel assigned to the OAS.

In addition to the prior notification and approval of all leases, purchases, sale, or other acquisition or disposition of properties, the alteration, construction, renovation, addition, or change in use of a property (including change in tenant if the property is being leased) are also considered "acquisitions" pursuant to the Act and must be approved by OFM. For this purpose, "alteration" includes any type of construction, repair, installation or other work that would require the issuance of a permit from the relevant and authorized local governmental authority.

The OAS should submit all such property related requests directly to OFM, which is located in the Harry S Truman Building (Main State) at 2201 C Street, NW, Room 2236, Washington, DC 20520. Such diplomatic notes may also be sent via e-mail to OFMProperty@state.gov.

At a minimum, the written request for approval should include:

1. The exact address of the property, including apartment, suite, floor number, square footage, etc;
2. The proposed or existing use of the property, i.e., OAS, OAS annex, Secretariat residence, staff residence, etc.;
3. The proposed transaction, i.e., purchase, lease (including proposed lease start and end dates), sale, alteration, or expansion;
4. The inclusion of one of the following statements:
 - a. No part of this property is or will be used for commercial purposes; or
 - b. A portion or all of this property is or will be used for commercial purposes and by doing so the Organization of American States understands that such

use deprives the area used for such purposes of both its inviolability status and eligibility for exemption from property taxation.

If a portion or all of a property is or will be used for commercial purposes, the OAS is required to provide OFM with information detailing the total square footage of the premises and the square footage of the premises that is or will be used for commercial purposes.

5. The inclusion of the following statements: The Organization of American States (OAS) acknowledges that it must request and obtain the approval of the Department of State's Office of Foreign Missions prior to [acquiring/disposing of] this property. The OAS further acknowledges that it must request and obtain the Department's approval prior to changing the use of this property from that which is described in this note.
6. *Alterations* - A description of the proposed alteration or expansion of an existing property, including a listing of the anticipated types of permits needed to complete the project.
7. *Residential* – The name(s) and position title of the intended tenant/resident.
8. *Point of Contact* – The name and contact information of the OAS employee authorized to discuss the proposed property acquisition with OFM.

After receiving a request, 22 U.S.C. § 4305(a)(1) allows the Department a period of up to sixty (60) calendar days for review. Although OFM is generally able to provide a response within a few weeks, the full review period may be required. Therefore, the OAS is encouraged to submit requests as far in advance as possible.

The Secretariat is encouraged to discuss the proposed acquisition, alteration, construction, renovation, use, or disposition of real property with OFM as early as possible. Entities that obtain the benefit of OFM's experience and advice in the early stages of an acquisition, alteration, construction, renovation, use, or disposition may avoid unnecessary financial or legal complications.

Prior to receiving a response from OFM to the proposed acquisition, alteration, construction, renovation, use, or disposition the OAS **may not** enter into a contract or lease agreement, or make any acquisition, alteration, construction, renovation, use, or disposition unless the contract or lease agreement expressly states that the execution of the contract or lease agreement is subject to disapproval by the Department of State. The OAS is reminded that significant financial and legal complications may result if this requirement is overlooked.

Unless specifically approved otherwise, properties acquired by the OAS for diplomatic purposes are to be used in their entirety for such purposes. Without separately requesting and obtaining OFM approval, properties authorized for diplomatic purposes may not be used, even in part, for any other purpose, such as office space for other governmental organizations, state-owned or private commercial entities, and may not be leased to any other party not affiliated with the OAS.

In addition to the notification and approval requirements, mission properties are subject to the building and land-use laws and regulations of the local jurisdiction, including permit requirements. The OAS is reminded that it is also required to request and obtain OFM's consent for the issuance of all property-related permits.

It is the responsibility of the OAS to be informed of, and be in compliance with, the regulations of the local jurisdiction in which they are located. Inasmuch as failure to comply with local laws could result in legal and financial complications, the OAS is encouraged to notify the Department and consult with OFM regarding a particular project at the earliest possible date.

Chancery for § 4306 Purposes

Designation and Determination No. FMA-2014-2 also provides that the principal offices of the Organization for American States used for diplomatic or related purposes, and annexes to such offices (including ancillary offices and support facilities), and including the site and any building on such site which is used for such purposes, constitute a "chancery" for purposes of section 206 of the Act (22 U.S.C. § 4306).

Chancery Properties in the District of Columbia

For chanceries or chancery annexes located in the District of Columbia, the determination as to whether a proposed location, expansion, or alteration is acceptable is based on the rules and criteria in section 206 of the Act. The guidelines outlined in that section are separate from, and in addition to, the notification process outlined above mandated by Section 205 of the Act.

The following information is provided to assist entities that intend to acquire new chancery space or perform alterations to existing chanceries in the District of Columbia:

- 1. *Permit Requirements:*** International organizations are required to request and obtain OFM’s consent for the issuance of all property-related permits. This includes the issuance of an occupancy permit, which is generally required in the District of Columbia before a building or office may be occupied as a chancery or chancery annex. The Act requires entities to substantially comply with all District of Columbia building codes and regulations, including obtaining all appropriate building permits. The District of Columbia’s permit applications are available at <https://dcra.dc.gov/>.
- 2. *Zoning Approval Process:*** Depending on the location of the property acquired, an occupancy permit may be issued by the District of Columbia as a “matter of right” only if the property is located in one of the following zoning districts: mixed use, commercial, industrial, or waterfront. If the property is not located in one of the aforementioned zoning districts, the Foreign Missions Board of Zoning Adjustment (FMBZA) of the District of Columbia must review and approve the request of the organization to locate its chancery at its proposed location. The FMBZA review process will take several months to complete and will include a public hearing. If an acquisition or alteration is determined to be subject to FMBZA review, it is recommended that international organizations seek private legal representation to complete the approval process.
- 3. *Expansion or Alteration of Existing Properties:*** Depending on the scope of the project, the expansion, alteration or change in use of a chancery property may also be subject to review and approval by the FMBZA. The Act requires international organizations to substantially comply with the District of Columbia building and related codes, including obtaining all appropriate building permits.

The information provided above regarding local zoning requirements for chancery use is not exhaustive, and the Secretariat is cautioned to fully explore the zoning and land-use implications of a particular property acquisition or alteration in the District of Columbia, including whether the property is considered historic and the construction implications of such status, before concluding any contract or agreement.

Chancery Properties outside the District of Columbia

The zoning approval process described above does not apply to locations outside the District of Columbia. However, international organizations are expected to substantially comply with all local building codes and regulations, including obtaining all appropriate building permits.

The OAS is encouraged to contact OFM's Property Section at OFMProperty@state.gov or (202) 895-2500 ext. 5 with any inquiries.

The United States Permanent Mission to the Organization of American States avails itself of this opportunity to renew to the Secretariat of the organization, the assurances of its highest consideration.